

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 3-7 are pending in the present application, Claims 3-7 having been amended. Support for the amendments to Claims 3-7 is believed to be self-evident from the originally filed specification. Applicants respectfully submit that no new matter is added.

In the outstanding Official Action, Claim 7 was rejected under 35 U.S.C. §101 as directed toward non-statutory subject matter; Claims 3-6 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention; and Claims 3-6 were indicated as including allowable subject matter if rewritten or amended to overcome the rejections under 35 U.S.C. §112, second paragraph.

Applicants thank the Examiner for the indication of allowable subject matter in Claims 3-6.

With respect to the rejection of Claims 3 and 4 under 35 U.S.C. §112, second paragraph, Applicants note that there is a proper antecedent basis for "said disc representative picture" on line 26 of amended Claims 3 and 4. Applicants respectfully request that this ground of rejection be withdrawn.

With regard to the rejection of Claims 5 and 6 under 35 U.S.C. §112, second paragraph, Claim 5 is amended to recite "recording said video file and said management information including said disc representative picture information," and Claim 6 is amended to recite "a second processor for recording said video file and said management information including said disc representative picture information." It is respectfully submitted that Claims 5 and 6 are not hybrid claims, but are proper method and apparatus claims, respectively, which act on the medium as described in each respective preamble. Therefore,

it is respectfully submitted that Claims 5 and 6 are in compliance with all requirements under 35 U.S.C. §112, second paragraph.

With regard to the rejection of Claim 7 under 35 U.S.C. §101, Claim 7 is amended to clarify the functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and to recite additional physical structure of the claimed recording medium and the structure of the recording layer.

MPEP § 2106 discusses statutory subject matter in relation to data structures of a computer readable medium. Particularly, MPEP § 2106 provides,

**a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.**

As Claim 7 recites "An information recording medium configured to have data recorded thereon and data reproduced therefrom by an information recording/reproducing apparatus," it is respectfully submitted that this recitation provides the interrelationship between the medium and the information recording/reproducing apparatus (hardware). Consequently, it is respectfully submitted that Claim 7 is in compliance with 35 U.S.C. §101.

Moreover, the MPEP provides that:

Office personnel have the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. Only when the claim is devoid of any limitations to a practical application in the technological arts should it be rejected under 35 U.S.C. § 101 . . . Further, when such a rejection is made, office personnel must expressly state how the language of the claims has been interpreted to support the rejection. (emphasis added) See MPEP § 2106.

Amended Claim 7 is not devoid of any limitations to a practical application in the technological arts. For example, amended Claim 7 clearly recites structural elements such as


"a pair of transparent substrates," "an adhesive layer," "a center hole," "a clamp area," and a "recording layer" to list a few. Thus, a rejection under 35 U.S.C. §101 is improper as at least these elements show that Claim 7 is not "devoid of any limitations to a practical application in the technological arts."

Accordingly, in view of the present amendment, no further issues are believed to be outstanding and the present application is believed to be in condition for formal allowance.

An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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